

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, *et al.*,

Defendants.

No. 5:23-cv-34-H

**TEXAS'S MOTION TO EXCLUDE DEFENDANTS' EXHIBITS 2, 3, 4, 7, 8,
11, AND 15**

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, in his official capacity as
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

DEFENDANTS'
EXHIBIT

DX-011

DECLARATION OF PETER MINA

I, Peter Mina, pursuant to 28 U.S.C. § 1746 and based upon my personal knowledge, and documents and information made known or available to me from official records and reasonably relied upon in the course of my employment, hereby declare as follows:

1. I am the Deputy Officer for Programs & Compliance at the Office for Civil Rights and Civil Liberties (“CRCL”) for the U.S. Department of Homeland Security (“DHS” or “the Department”). I have been employed by CRCL in this position since 2019. I previously served as Chief of the Labor and Employment Law Division (“LELD”) in the Office of the Principal Legal Advisor for U.S. Immigration and Customs Enforcement (“ICE”) since February 2013.

2. I am familiar with the development of the Alternatives to Detention Case Management Pilot Program (“CMPP”), the administration of the program, and its current status. CMPP was created in 2021 to provide voluntary case management and other services to non-detained noncitizens enrolled in ICE’s Alternatives to Detention (“ATD”) program. CMPP is managed by a National Board and chaired by the Officer for Civil Rights and Civil Liberties. The National Board is responsible for awarding funds to eligible local governments and nonprofit organizations to provide case management services. It is comprised of nonprofits with experience providing and evaluating case management programs for immigrants, asylees, and refugees.

Case Management Pilot Program

3. As part of the 2021 Consolidated Appropriations Act (the “2021 Appropriations Act”), Pub. L. No. 116-260, 134 Stat. 1182, 1449 (2020), Congress directed DHS to create CMPP and appropriated \$5 million in funding for the program. Under CMPP, grants are awarded to selected nonprofit organizations and local governments to provide voluntary case management services to noncitizens enrolled in ICE’s ATD program.

4. Under the 2021 Appropriations Act, the funds appropriated for CMPP are transferred to the Federal Emergency Management Agency (“FEMA”), but must be administered by the National Board. The National Board is composed of three nonprofit organizations – Church World Service, Catholic Charities USA, and Center for Migration Studies – and DHS’s Officer for Civil Rights and Civil Liberties, who is the chair of the National Board. From January 2022 through April 2023, I served as Senior Official Performing the Duties of the Officer for Civil Rights and Civil Liberties and as Chair of CMPP National Board.

5. Prior to awarding CMPP funds, FEMA issues a Notice of Funding Opportunity (“NOFO”) to which the National Board has 30 days to apply. Consistent with requirements of the 2021 Consolidated Appropriations Act that the National Board administer and award CMPP funds to subrecipients, *see* 134 Stat. at 1449, only the National Board is eligible to apply for the funds described in the NOFO.

6. Once the National Board is awarded CMPP funds from FEMA, the National Board posts a solicitation inviting subrecipients to apply. Potential subrecipients consist of nonprofit organizations and local governments. Subrecipient applicants must identify the geographic area where they will provide services in their application, and, if selected, the subrecipient must perform its services within that identified geographic area.

7. Upon receiving applications from potential subrecipients in response to its solicitation, the National Board considers the applications, votes on the nonprofit organizations or local governments to receive funding and the amount of the funding, and disburses the funding to the selected subrecipients. The funding to selected subrecipients is called a subgrant. Each Board member has one equal vote, and the designees for the three nonprofit organizations on the Board exercise their independent judgment when casting their votes. Decisions are made by majority vote. Therefore, if the three nonprofit organizations on the Board vote to award a subgrant to a certain subrecipient, the award will be made to that subrecipient.

8. The National Board's subgrant awards to subrecipients do not automatically renew, but instead must be applied for and awarded following each NOFO and the National Board's subsequent solicitation of applications. This affords different nonprofit organizations and local governments the opportunity to be considered for the program each time new CMPP funding issues. The National Board assesses each application on its merits.

9. The NOFO for the fiscal year 2021 CMPP funds was issued by FEMA on June 28, 2022. In July 2022, the National Board applied for the \$5 million allocated to CMPP for fiscal year 2021 and, on September 1, 2022, received the \$5 million grant. Thereafter, the National Board invited nonprofit organizations and local governments to apply for that 2021 grant money through a solicitation that posted on September 19, 2022. Exh. A. Applications were due October 19, 2022.

10. On November 30, 2022, the National Board selected BakerRipley, a nonprofit organization in Houston, Texas, to receive a subgrant of more than \$2 million of the funds allocated to CMPP for the fiscal year 2021. *See* Exh. B. Additionally, on the same date, the National Board also selected the International Rescue Committee New York ("IRC"), a nonprofit organization in New York, New York, to receive a subgrant of more than \$2 million. *See* Exh. C. As set forth above in paragraph 7, neither the subgrant to BakerRipley nor the subgrant to IRC will be

automatically renewed. Also, the fact that nonprofit organizations in Texas and New York received funds from the 2021 Appropriations Act does not mean that nonprofit organizations in those states will necessarily receive subgrants in the future.

11. Any individual enrolled in ATD is eligible to participate in CMPP. ICE provides the names of eligible participants to CRCL via an encrypted process solely for the purpose of the participants' enrollment in CMPP. CRCL randomizes the names and protects personal identifiable information before sending this information to the subrecipient program. Using the information CRCL provided, BakerRipley began contacting potential CMPP participants in April 2023, and IRC plans to do the same in May 2023.

12. Congress appropriated an additional \$15 million for CMPP in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49, 312 (2022), and an additional \$20 million for CMPP in the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459, 4726 (2022). The National Board has not solicited applications for grants or awarded any grants of the money allocated to CMPP under the Consolidated Appropriations Act, 2022, or the Consolidated Appropriations Act, 2023.

13. CMPP provides needed case management services to noncitizens who qualify for participation in the program, including, but not limited to, trafficking screening, legal and cultural orientation, referrals to social services, mental health services, and for individuals who will be removed, reintegration services.

Under penalty of perjury, pursuant to 28 U.S.C. § 1746, I declare the foregoing is true and correct to the best of my knowledge and belief.

Dated the 3rd day of May 2023



Peter Mina
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